menced, and such being the case a suit brought in a county where no action could be properly commenced, the defendant waived the question of venue by pleading to the merits instead of pleading in abatement. Under GEN. ST. 1866, c. 62, § 10, providing that actions for divorce shall be commenced in the county where plaintiff resides, the complaint need not show in what county plaintiff resides. *Young* v. *Young,* 18 Minn. 90. See also *Grant* v. *Grant,* 49 Mo. App. 3.

EVIDENCE—DYING DECLARATION.—In a trial for murder a witness testified that just before the deceased died he said that the defendant had shot him for nothing. To this part of the deceased's dying declaration the defendant objected on the ground that it was an opinion of the deceased and hence incompetent. *Held,* that the dying declaration should be admitted as a whole. *State* v. *Peace* (1908), — La. —, 47 South. 28.

The present case is in accord with previous cases decided in the same state. *State* v. *Trivas,* 32 La. Ann. 1086; *State* v. *Carter,* 106 La. 408. Its reasoning, however, is opposed to the great weight of authority which holds that those parts of a dying declaration which consist of matters of opinion are inadmissible. 1 GREENLEAF, EVIDENCE (16 Ed.), § 159; 4 ENCYC. EVID. 993. Mr. WIGMORE says that the opinion rule has no application to dying declarations, but nevertheless he admits that courts in general accept the rule as applicable. 2 WIGMORE, EVIDENCE, § 1447. Some courts, however, while professedly following the above rule, have reached the same result as the present case by holding that the words, "he shot me for nothing," or other declarations almost identical, were expressions of fact and not of opinion. *Sullivan* v. *State,* 102 Ala. 135; *Gerald* v. *State,* 128 Ala. 6; *State* v. *Lee,* 58 S. C. 335; *Boyle* v. *State,* 105 Ind. 469. On the other hand, it has been held directly opposed to the present decision, that dying declarations practically identical with those in the preceding cases were expressions of opinion and not admissible. *State* v. *Sale,* 119 Ia. 1; *Collins* v. *Commonwealth,* 12 Bush. 271; *Jones* v. *Commonwealth* (Ky.), 46 S. W. 217.

EVIDENCE—OTHER OFFENSES—TO SHOW INTENT.—Prosecution for perjury. Defendant appeared as a witness on the final proof of a homestead claim, and swore falsely that the person for whom he appeared had lived continually on the land for the required time. At the trial evidence was admitted that some time before the defendant had sworn falsely on the final proof of witness's homestead claim, in regard to the length of time witness had lived on the land. *Held,* that such evidence was admissible to show knowledge, design and system on the defendant's part in furnishing evidence in support of fraudulent land claims. *Barnard* v. *United States* (1908), — C. C. A., 9th Cir., 162 Fed. 618.

Crimes committed at a former time cannot be admitted in evidence to show that the person who committed them would be likely to have committed the crime in question, but where it is necessary to prove the defendant's intent or knowledge, then evidence of other similar crimes may be introduced, provided they tend to show the existence of the intent or knowledge